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**Health right**

Health as a basic human right should be viewed holistically and with its positive aspect, that is, well being should be acknowledged which would lead to achievement of a socially and economically productive life. The right to equality encompasses within itself the right of a poor patient to get adequate treatment and medicines from the State irrespective of their costs. The citizens have a right to quality health care, treatment and medication regardless of race, religion, social status and ability to pay.

In 1977, Alma atta declaration the goal of “Health for All by year 2000” it also state that ‘enjoyment of the highest attainable standard of health is one of the fundamental right of every human beingwithout distincation of the race, religion, political belief, economic and social condition.’

Defination: The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction or race, religion, political belief, economic or social condition.”  The World Health Organisation’s (WHO) constitution

Development of the concept of health right

1. The Moral Apprentices Act (1802) and Public Health Act (1848) were adopted in the United Kingdom as a means of containing social pressure arising from poor labor conditions.  The 1843 Mexican Constitution included references to the state’s responsibility for preserving public health. The first laws containing health-related provisions in the industrial era
2. Considering health as a social issue led to the foundation of the World Health Organization (WHO) in 1946.  With the emergence of health as a public issue, the conception of health changed. With the establishment of WHO, for the first time the right to health was recognized internationally.
3. Over the time several international and regional human right laws were made to support this concept for unversal recognication of health right, which include

* Universal Declaration of Human Rights (art. 25)
* European Social Charter (art. 11)
* International Covenant on Economic, Social and Cultural Rights (art. 12)

1. To further strenghten right to health1978 declearation of Alma –Ata on primary health care in which states pledged to progressively develop comprehensive health care systems to ensure effective and equitable distribution of resources for maintaining health. This is one of the components of the health right.
2. The Declaration of Jakarta in 1977 includes an updated conceptualization of health and identifies the requirements for its attainment by the next century. Respect to human right women empowrement, is one of the important topic of this declaration.
3. Other International initiatives are Program of Action of the International Conference on Population and Development Cairo, 1994 (encompassed three goals related to reducing infant and maternal mortality, and guaranteeing universal access to reproductive health and family planning services)
4. The Platform of Action of the Fourth World Conference on Women (Beijing, 1995), which adopted five strategic objectives aimed at improving women’s health worldwide.

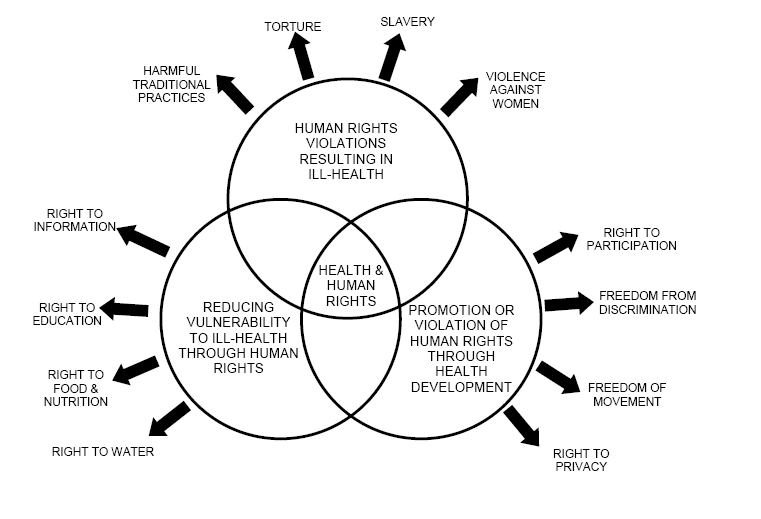
Countries adopted health right concept:

* American Declaration on the Rights and Duties of Man (art. 33)
* African Charter on Human and Peoples’ Rights (art. 16)

History:

* The ‘Right to health was affirmed at the international level in the universal decleration of human right, article 25 in 1948. This article says that ‘every one has the right to astandard of living adequate for the health and well being of himself and his family’
* The United Nation expanded upon the” Right to health” 1966, article 12 of International covenant in Economics, social and cultural rights “ right of every one to the enjoyment of the highest attainable standard of health” also specifically called for the “Provision of the reduction of the Infant mortality and the healthy development of the of the child, improvement of the all aspect of enviromental and industerial hygiene, the prevention, treatment and control of epidemic, endemic, occupational, and other diseases, and the creation of the condition which could assure to all medical service and medical attention in the event of sickness.”
* Alma ata decleration in 1977, state that standard health is a fundamental right of every human being.
* In 2000, the United Nation further expand this concept of “Right to Health” with general comment no. 14, by defining the meaning of adequate health care system, detailing obligation of states and NGO, defining violation, and discussing the basis implementation

World health organization has given linkages to the human right to the health



* The voliation or lack of attention of the human right can have serious health consequenses (harmful tradiation and practice, degrading treatment, voilance against women and children)
* Health policies and programmes can promote or voliate human right in their designs and implementation.(freedom from discrimination, right to participate, information pricavcy)
* Vunralibilty to ill health can be reduce by taking steps to respect, and protec human rights ( freedom from discrimination from sex, race and gender role, right to health, food and nutrition, education and housing)

Issues in health right

Human rights relating to health are set out in basic human rights treaties and include:

* Attaining the highest degree of physical, mental reproductive and sexual health.
* Equal access to adequate health care and health related service irrerespective of sex, race, cast and economic status.
* Equitable distribution of food.
* Access to access of safe drinking water.
* Adequate standard of living.
* Right of having safe and healthy enviorment.
* Hman right to the safe and healthy work place and adequate protection for pregnant women in work
* Right to freedom from discriminationand discriinatory social practice including pre natal sex selection, female infanticide and femalegenitalmutilation.
* Right to access to education and information related to health (including reproductive health and family planning to enable couples and individuals to decide freely and responsibly all matters of reproduction and sexuality)
* Human right of the child to an enviorment appropiate for physical and mental development.

Health rights in relation to the Indian constitution and law

The term ‘health’ implies more than mere absence of sickness as held by the Supreme Court. The Apex Court in India has played a decisive role in realization of the right to health by recognising the right as a part of the fundamental right to life and issuing suitable directions to the State authorities for the discharge of their duties.The Court has recognised that maintenance of health is a most imperative constitutional goal whose realisation requires interaction of many social and economic factors.

1. Article 21 and 39:  Right to health and medical care is a fundamental right under Article 21 read with Articles 39.This articles of the Constitution guarantees protection of life and personal liberty by providing that no person shall be deprived of his life or personal liberty except according to the procedure established by law. State is responsible to safe guard the right to life of the every preson in the state.
2. Article 242 and 243-g: Gives the right to the municipal or local authorities in relation to the public health and sanitation which include establishment and maintenance of dispensaries, expansion of health services, regulating or abating offensive or dangerous trades or practices, providing a supply of water proper and sufficient for preventing danger to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply, public vaccination, cleansing public places and removing noxious substances, disposal of night soil and rubbish, providing special medical aid and accommodation for the sick in the time of dangerous diseases, taking measures to prevent the outbreak of diseases etc.
3. Sexual and Reproductive rights: Right of men and women :
4. To be informed about the family planning methods, along with the supportive counseling.
5. To have access to safe, effective, affordable, and acceptable methods of family planning of their choice
6. To appropriate full range of reproductive health-care services that include women to go safely to pregnancy and childbirth and provide couples with the best chance of having a healthy infant and get treatent for the sexually transmitted diseseas if requried.
7. Freedom from pressure and coercion.
8. Patients right:
9. Right of information of the patients own health: Every patient has a right to have a direct access to his or her medical records.
10. Right to imformed consent:Every patient have a right of access to all the information that might enable her or him to actively participate in the decision of his or her own health
11. Right of free choice: Every patient has a right to decide abot the doctor, hospital, diagnostic examination and therapy to undergo.
12. Right of privacy and conidentiality: Every individual has a right toconfidentiality of the presonal information, about health status, diagnosis and mode of the treatment he or she is subjected.
13. Right to safety: Every individual has a right to be free from harm caused by poor functioning of health services, mal practics and error.Also has a right to seek health servicesand treatment that meet the high safty standard.
14. Right to complain: It is a right of the patient to complain when ever she or he has suffered from harm, or not receiving treatment or servicesto his or her on satistfication. He also have a right to receive proper feed back of the launched complain.

Patient can file the complain under

1. Criminal Law
2. Civil Law

* Law of contract- If there is any maldeficiency in the specific contract between the doctor and the patient which was taken oral, written or an implied at the starting of the treatment, then patient can file case against treating doctor.
* Law of Tort- All the cases of the medical neglience comes under this law.

1. Consumer protection act (CPA) : Consumer proyection act was passed by the government of India in 1986.
2. Medical council: Its for the doctors neglience. If the cou sufficient evidence are against the doctors then council has a power to cancel the registration of the doctor or can punish in other terms.
3. Right to information act: Act is a part of the Pight of information bill 2004.
4. Other Laws

MTP Act, Drugs and Cosmetic act, Drug and magic remedies act etc.

1. Article 42 and 43( Health right of workmen):According to this right,it is a right of thr worker to have better to livelihood, better standard of life, hygienic conditions in work place and leisure. Continued treatment, while in service or after retirement is considered to be a moral, legal and constitutional concomitant duty of the employer and the State

If the worker is suffering from any of the occupational health hazard, he/she should be paid compensation by the concerned establishments.. All the asbestos industries were directed to maintain and keep maintaining healthy record of every worker upto a minimum period of 40 years from the beginning of the employment or 15 years after retirement or cessation of employment whichever is later

National Human right commission

Recommendations for the action plan to operationalize thr right to health care.

NHRC would oversee the monitoring of health rights at the National level by initiating and facilitating the Central Health Services Monitoring Committee and at regional level by appointing Special Rapporteurs on Health Rights for all regions of the country.  
· Review of all laws/statutes relating to public health from a human rights perspective and to make appropriate recommendations to the Government for bringing out suitable amendments

Recommendations to State health rights monitering committes (SHRCs)  
· SHRCs in each state would facilitate the State Health Rights Monitoring Committees and oversee the functioning of the State level health rights redressal mechanisms.  
  
  
· Jan Swasthya Abhiyan (JSA) and various civil society organisations would work for the widest possible raising of awareness on health rights - 'Health Rights Literacy' among all sections of citizens of the country